

SAN DIEGO REGIONAL WATER QUALITY CONTROL BOARD

EXECUTIVE OFFICER'S REPORT

February 13, 2002

PART A

SAN DIEGO REGION STAFF ACTIVITIES *(Staff Contact)*

1. **Presentation to Navy Vector Control Meeting** *(Peter Michael)*

On January 16, Peter Michael gave a presentation on the new aquatic pesticide National Pollutant Discharge Elimination System (NPDES) permit to the Navy Applied Biology Program scientists at their meeting in San Diego. The emergency general permit was adopted by the state board on July 19, 2001 in response to the *Headwaters versus Talent Irrigation District* March 12, 2001 opinion of the federal Ninth Circuit Court. The federal court held that applications of aquatic pesticides are discharges of pollutants to waters of the United States. To our knowledge only California, among the western states in the Ninth Circuit jurisdiction, has yet adopted an NPDES permit for this activity. Navy entomologists at the meeting were interested in a subsequent lawsuit filed in state court by DeltaKeeper and San Francisco BayKeeper naming the State Water Resources Control Board and parties covered under the general permit. The lawsuit calls for recovery of at least \$25,000 from the parties named in the suit. The Navy scientists were confused that citizens could sue parties under the Clean Water Act for failure to obtain NPDES permits but that citizens could also sue parties in state court which were covered by permits for the same activities.

2. **SWIM Database Update** *(John Odermatt and Denise Rhaney)*

The Regional Board staff participated in a SWIM-development meeting via teleconference on January 10 and 11, 2002. Staff from the State Water Resources Control Board (SWRCB) and representatives from other Regional Boards provided critical comments on the user interface (i.e., data entry screens) in the current SWIM database. The SWRCB programmers will incorporate the information, collected from the user group, into the new user interface for the SWIM II database. Staff will continue to update the Regional Board on staff activities regarding the SWIM database in future Executive Officer Reports.

3. **County Department of Environmental Health Quarterly Meeting** *(Jody Ebsen and John Odermatt)*

On January 24, 2002, Regional Board staff participated in the annual Site Assessment and Mitigation Meeting sponsored by the County of San Diego Department of Environmental Health (DEH). Jody Ebsen spoke about developing waste discharge requirements (WDRs) for groundwater remediation sites. John Odermatt spoke about the future status of waivers from WDRs for temporary waste piles and contaminated soil reuse/disposal (i.e., Basin Plan waivers, Resolution Numbers 95-96 and 95-63). Recently enacted

modifications of Water Code Section 13269 provide that all existing waivers from WDRs will expire on January 1, 2003. Both of these topics may have direct impacts upon the oversight and cleanup work at sites currently regulated by the County DEH staff.

4. Presentations at the California Certified Unified Program Agencies Conference (*Julie Chan, Barry Pulver*)

Due to the Regional Board's innovative work on aquifer protection and cleanup in the Temecula Valley area, Julie Chan and Barry Pulver were invited to speak at the CUPA Conference in San Jose in early February. With one water supply well shut down due to Methyl Tertiary Butyl Ether (MTBE) pollution, and another well threatened, the Regional Board's focus in Temecula has been on aquifer protection and pollution prevention, not just cleanup. On February 4, Julie Chan gave a short presentation on the Regional Board's use of Water Code section 13267 to require enhanced leak detection testing at operating stations in the Temecula area. The testing was required as part of the Regional Board's investigation of the scope of the MTBE threat to groundwater in the Temecula Valley, and was based on evidence developed by the Santa Clara Valley Water District that upgraded UST systems leak in significant numbers. To facilitate the enhanced leak detection testing, the State Water Resources Control Board (State Board) agreed to include the Temecula stations in the legislatively mandated Field Based Research (FBR) Program. Under the FBR program, the State Board is conducting enhanced leak detection tests at randomly selected gasoline stations in six counties to determine the effectiveness of the 1998 UST tank system upgrades. The State Board is conducting and paying for the enhanced leak detection tests at the Temecula stations that agreed to participate in the FBR program. On February 6, Barry Pulver gave an overview presentation of the Temecula Valley MTBE problem at the conference session on Gasoline Releases at Operating Stations. In addition to cleanup oversight, Barry emphasized the Regional Board's work in building a coalition of agencies, including the City of Temecula and the local water district, to work on aquifer protection in the Temecula Valley.

5. Presentation to Southern California Coalition of Resource Conservation Districts (*Jeremy Haas*)

As the featured speaker at the February 4, 2002 meeting of the Southern California Coalition of Resource Conservation Districts (RCDs), Mr. Jeremy Haas of your staff delivered a presentation on the Regional Board's watershed management approach. This year a priority of the Coalition is to raise awareness of watershed issues among landowners in order to improve use of best management practices. Staff was invited to speak in order to jumpstart the dialogue. First, staff presented the context of watershed-based management, including the 3-tiered approach in determining the degree of Regional Board involvement in a watershed and ways in which traditional programs are being implemented in a watershed-based context. Next, staff engaged in discussions regarding the relevance to the RCDs, including the roles they can play in developing and implementing watershed management plans. The meeting was attended by representatives of RCDs from San Diego County, Riverside County, the Santa Monica Mountains, and Ventura County, as well as staff from the federal Natural Resources Conservation District.

6. Proposition 13 Workshop (*Kristin Schwall*)

Kristin Schwall, Debbie Woodward, and Dat Quach of your staff conducted a workshop with assistance from State Board staff on January 15, 2002 to familiarize people with the Proposition 13 grant requirements. Staff reviewed the application process, clarified the Regional Board priorities, and answered questions. The workshop was attended by 57 people representing local cities, counties, environmental groups, educational institutions, watershed groups, Indian tribes, and private citizens. Staff anticipates that a number of worthwhile projects will be submitted as a result of the workshop and follow-up meetings.

PART B **SIGNIFICANT REGIONAL WATER QUALITY ISSUES**

1. Sanitary Sewer Overflows (SSO) and Other Wastewater Overflows (*Victor Vasquez, Adam Laputz, Chiara Clemente, David Hanson, Bryan Ott*)

In January 2002, there were 40 sanitary sewer overflows from public sewage collection systems reported to the Regional Board office; 20 of these spills reached surface waters or storm drains, and three resulted in closure of recreational waters. Of the total number of overflows from public systems, 10 were 1,000-gallons or more. A major SSO in the City of San Diego is discussed further below. An additional 19 sewage overflows from private property were also reported in January, of which two were 1,000 gallons or more. Eight of the private property spills reached surface waters or storm drains, but none resulted in closure of recreational waters. Regional Board staff has updated the sewer overflow statistics for each sewer agency by fiscal year since FY 1998-99 in the attached table entitled "Sanitary Sewer Overflow Statistics."

A total of 0.32 inches of rain was recorded at San Diego's Lindbergh Field in January. For comparison, 0.45 inches of rain was recorded and 43 public SSOs were reported in December 2001, and 0.99 inches of rain was reported and 22 public SSOs were reported in November 2001.

The City of San Diego reported a 1,010,000-gallon SSO near 47th Street and Federal Boulevard that occurred between January 15 and January 17, resulting in a discharge to Chollas Creek and San Diego Bay. The overflow caused the posting of signs for three days to prevent public contact with all portions of San Diego Bay where persons swim or dive. The cause of the overflow was reported as a manhole blockage attributed to vandalism; vandals were apparently able to circumvent the locking device on the manhole. A Notice of Violation is pending issuance for this SSO.

Six Notices of Violation (NOVs), four with Requests for Technical Information (RTIs), were issued in January for several recent significant overflows. NOVs were issued to the following agencies:

City of Encinitas

The City of Encinitas notified this office of a 9,000-gallon SSO that occurred at Moonlight Beach on January 23, 2002; 1,500 gallons was recovered. The remaining 7,500 gallons entered Moonlight Creek, tributary to the Pacific Ocean. This overflow was attributed to an obstruction in the sewer line caused by rags and grease.

City of Escondido

Regional Board staff was informed on January 9, 2002 via a County of San Diego News Release of an estimated 750-gallon spill of raw sewage that occurred on January 8, 2002 from the City of Escondido's sewer line on Hamilton Lane near Via Verde Road. The overflow was attributed to a failed sewer line air release valve. City crews were able to recover 100 gallons. The remaining 650 gallons flowed into a storm drain which drains to Felicita Creek, tributary to Lake Hodges, a drinking water reservoir. Signs warning of sewage contaminated water were posted along Felicita Creek and the Lake Hodges equestrian trail entrance for three days.

South Coast Water District

South Coast Water District notified this office of a 150-gallon SSO that occurred at the corner of Seven Seas Drive and Crown Valley Parkway, Dana Point, on December 23, 2001, and resulted in a discharge to Salt Creek. This overflow was caused by a sewer line blockage consisting of roots and debris.

Valley Center Municipal Water District

On December 11, Valley Center Municipal Water District experienced a 30,000-gallon overflow of partially treated sewage (activated sludge) from the Lower Moosa Treatment Plant in Valley Center which entered Moosa Creek. The overflow was the result of a blockage in the inlet pipe to the secondary clarifier.

USMC Camp Pendleton (Base)

An NOV was issued for the following significant SSOs that occurred between June 1 and December 31, 2001:

- The Base notified this office of a 15,000-gallon SSO at the corner of Albatross and Longspur that occurred on June 27, 2001. This overflow was the second to occur in that area within a 12-month period, and resulted from a sewer line break.
- The Base notified this office of a 30,000-gallon SSO along Vandergrift Blvd., one-half mile north of the main gate, which occurred September 9-10, 2001. The spill resulted from a grease blockage in the sewer line.
- The Base notified this office of a 17,150-gallon SSO at Building 22831, which occurred on September 11, 2001. The spill resulted from a pump station failure.
- The Base notified this office of a 40,500-gallon sanitary sewer overflow in the Serra Mesa Housing area, which occurred December 17-18, 2001, and resulted in a discharge to Pilgrim Creek. This overflow was the second to occur in that area within a 12-month period and resulted from a partial blockage in the sewer line.

Eastern Municipal Water District

Eastern Municipal Water District (District) experienced a 138,500-gallon overflow of partially treated effluent that originated from the Temecula Valley Regional Water Reclamation Facility on December 19, 2001. The overflow resulted in a discharge to Murrieta Creek. This overflow was indirectly caused by construction conducted by the District near a secondary clarifier.

2. Total Maximum Daily Load (TMDL) Activities Update *(Alan Monji)*

TMDL Overview

In accordance with Section 303(d) of the Clean Water Act (CWA), the state must identify waterbodies that are not meeting water quality standards based on available pollution controls. The CWA also requires states to establish a priority ranking for waters on the 303(d) list of impaired waters and establish Total Maximum Daily Loads (TMDLs) for such waters.

A TMDL is an action plan for reducing and allocating the loads of a specific pollutant to an impaired water body. TMDLs are developed for the purpose of ensuring that water quality standards are attained and beneficial uses restored. Specifically, a TMDL is (1) a calculation of the maximum amount of a pollutant that a waterbody can receive and still meet water quality standards (i.e., it is a waterbody's total assimilative capacity) and; (2) it is an allocation of that maximum amount amongst all of the contributing point and non-point sources of the pollutants within a watershed (i.e., it is the sum of the allowable loads from all sources). TMDLs are typically waterbody and pollutant specific but can also be written to address multiple water bodies having a common impairment. The TMDL process provides stringent water quality-based controls when technology based controls prove to be inadequate to achieve water quality standards.

The first six tasks in the "development phase" of a TMDL include preparation of the Problem Statement, Numeric Target, Source Analysis, Linkage Analysis, Load Allocations and Wasteload Allocations, and Margin of Safety. Together these elements comprise what is commonly known as a "Technical TMDL". Other considerations in TMDL development include seasonal variations and critical conditions.

- **Problem Statement:** Describes the water quality standards(s) that are being exceeded, the resulting beneficial use(s) that are impaired, and the nature of the impairment.
- **Numeric Targets:** Specific quantitative goals, conditions, or endpoints for the water body which equate to attainment of water quality standards and protection of beneficial uses (i.e., numeric targets describe the future desired condition(s) for the waterbody.) Where the applicable water quality standards are expressed in numeric terms, the numeric targets are typically set equal to the numeric water quality standards. Where the water quality standards are expressed in narrative terms, the numeric targets are a "quantitative interpretation" of the narrative standard. Numeric targets are often based on endpoints other than strict avoidance of exceedances. For example a numeric target can describe a required reduction of pollutant loads or a required restoration of a particular habitat condition in quantitative terms. The essential prerequisite for all numeric targets is that they ultimately result in attainment

of water quality standards. Numeric targets are not directly enforceable but are used to assess progress towards attainment of standards.

- Source Analysis: Describes all known point, non-point, and background sources of pollutants in the watershed that are contributing to the exceedance of standards and beneficial use impairment (i.e., it is an estimate of the total amount of pollutants entering the receiving water). The source analysis describes the location, magnitude and timing of each pollutant source and provides the key basis for determining the level of pollutant reduction needed to meet water quality standards and the allowable total maximum daily load.
- Linkage Analysis: Describes how the actions to be taken will result in attainment of the relevant water quality standard(s). Specifically, the linkage analysis describes the relationship between the numeric targets and the pollutants by determining the waterbody's total assimilative capacity or loading capacity for the pollutant(s). The linkage analysis represents the critical quantitative link between the TMDL and the attainment of water quality standards.
- Load and Wasteload Allocations: The load allocation (LA) is the portion of the total maximum daily load allocated collectively to the non-point sources and the natural background sources of the pollutant(s) of concern. The wasteload allocation (WLA) is the portion of the total maximum daily load allocated collectively to the point sources of the pollutant(s) of concern. WLAs can be included in NPDES permits as numeric effluent limitations.
- Margin of Safety: Accounts for the uncertainty in our understanding of the relationship between the pollutant loads and the resulting quality of the receiving waterbody. A Margin of Safety (MOS) must be incorporated into the TMDL for each pollutant and may be explicit (e.g., a specific allocation assigned to the MOS) and/or implicit (e.g., use of conservative assumptions in analysis).

In quantitative terms, a TMDL can be defined as follows:

$$\text{TMDL} = \text{WLA} + \text{LA} + \text{MOS}$$

When the development phase is near completion, the "Implementation Planning" phase begins. The Implementation Plan describes best management practices, point source controls or other actions necessary to implement the TMDL. The Plan describes how and when necessary controls / restoration actions will be accomplished, and who is responsible for implementation. Developing a Monitoring Strategy is also part of Implementation Planning. The Monitoring Strategy specifies the monitoring activities needed to assess the effectiveness of the TMDL and includes a schedule for reviewing and (if necessary) revising the TMDL and associated implementation elements. Stakeholder participation is an essential part of TMDL development and implementation.

The draft technical TMDL, Implementation Plan, Monitoring Strategy, and proposed Basin Plan Amendment are subject to independent scientific peer review. Upon responding to peer review comments and making appropriate revisions, the formal public review process begins. This process will culminate in a formal public hearing in which the Regional Board will consider adoption of the Basin Plan Amendment. Incorporation of the regulatory provisions of the TMDL into the Basin Plan is the mechanism that makes the TMDL enforceable and ensures its implementation.

Upon adoption by the Regional Board, the TMDL is subject to approval by the State Board, the Office of Administrative Law (OAL) and USEPA. Only upon approval by USEPA is the TMDL effective. The final phase, "Implementation" by the responsible parties is overseen by the Regional Board.

Additional TMDL information and guidance documents can be found on the World Wide Web. Some useful web sites are listed below. www.EPA.gov/OWOW/tmdl/decisions; www.swrcb.ca.gov/rwqcb9/TMDL/tmdl; www.swrcb.ca.gov/quality.

General Progress on TMDL Projects

Currently, there are seven TMDLs in progress. Two of the seven, Chollas Creek – Diazinon and Rainbow Creek – Nutrients, will be presented to the Regional Board for consideration of adoption this fiscal year, tentatively April 2002.

Chollas Creek - Diazinon *(Linda Pardy)*

The draft technical TMDL has been formally peer reviewed and staff has responded to all peer reviewer comments. Where appropriate, changes have been made to the draft technical TMDL to accommodate reviewers comments.

The Implementation Plan, Monitoring Plan, Basin Plan amendment, Staff Report, Economic Consideration, CEQA checklist, Regional Board Resolution, Notice of Public Workshop, Notice of Public Hearing and Notice of Filing have been completed and the entire package is currently undergoing internal management review. Upon completion, the package will be released for a 45-day public review and comment period. The tentative public workshop is scheduled for late February or early March 2002 and the tentative Public Hearing is scheduled for April 10, 2002.

Rainbow Creek - Nutrients *(Lisa Brown and Alan Monji)*

The formal scientific peer review of the draft staff report is in progress. Two of the three peer reviews have been received. Staff is preparing written responses to comments.

The remaining three components of the staff report - the Economic Consideration, CEQA checklist, and Regional Board resolution - are currently under development. Staff has submitted a request to the Economics Unit at State Board to perform an economics analysis on January 15, 2002 and is still pending. The environmental review discussion and the Environmental Checklist were submitted for legal review on January 22, 2002.

The draft resolution has been completed and was submitted for legal review on January 31, 2002.

The completed staff report is expected to be released for public review in mid-February 2002. Staff expects to hold one public workshop during the public review period. The Regional Board Hearing for the consideration to incorporate the TMDLs into the Basin Plan is expected in April 2002.

Chollas Creek - Metals *(Lisa Brown and Alan Monji)*

The draft Problem Statement, Numeric Targets, and Source Analysis have been submitted to USEPA for review, and these draft documents are posted on the Regional Board web site. So far, USEPA has only minor comments on these drafts. The Industrial Environmental Association (IEA) has also provided comments on these drafts.

The drafts of the Load Allocations, Linkage Analysis, and Margin of Safety are complete and have been reviewed by Regional Board staff. However, these drafts need revision since new data were collected in Chollas Creek after the original drafts were completed, and the data may alter load allocations and source estimates. The Chollas Creek draft revisions are on hold while staff focuses attention on completing the Rainbow Creek Nutrients TMDLs. When work on this TMDL resumes, it will be conducted by newly assigned staff members (the staff person that developed this TMDL recently resigned).

Shelter Island Yacht Basin - Dissolved Copper *(Lesley Dobalian and Christina Arias)*

Internal review continues of the draft Implementation Plan. The technical portion of the TMDL, along with the monitoring plan, will be sent out for peer review in late February. The Regional Board Hearing to consider incorporating the TMDL into the Basin Plan is expected in August 2002.

San Diego Bay / Near Chollas Creek – Contaminated Sediment *(Alan Monji and Tom Alo)*

The mouth of Chollas Creek is one of the five designated hotspots in San Diego Bay identified by the Bay Protection and Toxic Cleanup Program (BPTCP). Work has begun on the draft Problem Statement and Numeric Targets for Near Chollas Creek TMDL. Currently, background information and site assessment reports for San Diego Bay are under review. Rough draft versions of the Problem Statement and Numeric Targets have been submitted to selected in-house staff for review and comment.

A conference call between Regional Board TMDL staff and Mr. Steve Bay of the Southern California Coastal Water Research Project (SCCWRP) took place January 31, 2002. The purpose of the call was to get a progress report for the ongoing site investigation at the mouth of Chollas Creek and Seventh Street Channel/Paletta Creek conducted by SCCWRP and the U.S. Navy. A brief overview of the major portions of the spatial extent investigation (sediment chemistry, toxicity testing, and benthic community analysis) were presented and discussed in the conference call. Furthermore, we have requested that SCCWRP and the U.S Navy conduct an informal presentation of

the findings to date for Regional Board staff. A tentative date for this presentation is targeted for late February 2002.

San Diego Bay / Seventh Street Channel – Contaminated Sediment *(Tom Alo and Brennan Ott)*

The mouth of Paleta Creek/Seventh Street Channel is one of the five designated hotspots in San Diego Bay identified by the BPTCP. Work has begun on the draft Problem Statement and Numeric Targets for Seventh Street Channel TMDL. Currently, background information and site assessment reports for San Diego Bay are under review. Rough draft versions of the Problem Statement and Numeric Targets have been submitted to selected in-house staff for review and comment.

A conference call between Regional Board TMDL staff and Mr. Steve Bay of the Southern California Coastal Water Research Project (SCCWRP) took place January 31, 2002. The purpose of the call was to get a progress report for the ongoing site investigation at the mouth of Chollas Creek and Seventh Street Channel/Paleta Creek conducted by SCCWRP and the U.S. Navy. A brief overview of the major portions of the spatial extent investigation (sediment chemistry, toxicity testing, and benthic community analysis) were presented and discussed in the conference call. Furthermore, we have requested that SCCWRP and the U.S. Navy conduct an informal presentation of the findings to date for Regional Board staff. A tentative date for this presentation is targeted for late February 2002.

Mission Bay –Bacteria *(Christina Arias and Lesley Dobalian)*

In total, approximately \$8 million has been currently committed or proposed for the conduct of numerous ongoing or proposed research projects to address elevated bacteria levels in Mission Bay. Approximately \$4.0 million of that total is State funds in the form of Cleanup and Abatement Account and Clean Beaches Initiative dollars. An additional \$1.5 million of the total is the result of supplemental environmental projects (SEPs) approved by this Board. It is anticipated that the results of these numerous investigations will provide information needed in the development of the Mission Bay TMDL on bacteria.

Because of the State's substantial stake in these projects, it is in our interest to ensure the efficient use of funds. We presently have three major concerns. First, it is unclear how each of the many projects is inter-related and how they are distinct (i.e., demonstrate that each of the projects is an essential part of a single overall cohesive plan to reduce bacterial contamination in Mission Bay). Second, it is unclear that multiple funding sources will not be used to fund the same work. Finally, it is unclear what entity (ies) will be responsible for providing overall management for the plan as a whole, including each of the many project components. Accordingly, the attached letters (B-2) dated December 18, 2001 and January 31, 2002 were sent to the City of San Diego requesting clarification of these issues. Additionally your staff has met with, and plans future meetings with, City of San Diego staff to improve our understanding of the issues.

In December 2001, the City of San Diego submitted two proposals requesting \$3 million from the Governor's Clean Beaches Initiative. The proposals were reviewed and rejected by the Clean Beaches Advisory Group (CBAG), the statewide entity charged with awarding Clean Beaches Initiative funds. In its written comments to the City, CBAG cited the same concerns as those raised in our December 18 and January 31 letters to the City. CBAG requested that the City revise its proposals to address these concerns.

On January 29, 2001 CBAG met again to review the City's revised proposals. Although citing several of the same continuing concerns, CBAG approved the first of several phased allocations to fund both proposed projects. Once completion of early project objectives has been demonstrated, the proposals will be reconsidered by CBAG for further funding.

3. Clean Water Act Section 401 Water Quality Certification Actions Taken in December 2001 and January 2002 (Stacey Baczkowski)

DATE	APPLICANT	PROJECT TITLE	PROJECT DESCRIPTION	CERTIFICATION ACTION
12/6/01	Lennar Homes	Nutmeg Street/ La Estrella Road Extension	Extension of Nutmeg Street/ La Estrella Road which will include five road crossings over existing drainage courses	Conditional
12/6/01	Dr. Ronald Lucker	Sea Cave Infill	Bluff stabilization at 517 Pacific Avenue; Solana Beach, CA 92075	Standard
12/6/01	California Department of Transportation	Pala Mesa Culvert Cleaning	Clear culvert of sediment and debris to excavate a sump at a drainage facility	Standard
12/7/01	City of San Marcos	City of San Marcos Roadway Improvements and Flood Protection Project	Several road improvements including the widening and extension of Grand Avenue, construction of Grand Ave. bridge crossing; berming portions of San Marcos Creek	Denial
12/7/01	County of San Diego, Department of Public Works	Patrick Drive Bridge Replacement	Replace an existing bridge, including widening of the channel between two abutments, a bridge deck, and an approach road.	Conditional
12/11/01	City of San Diego	Chollas Valley Trunk Sewer, Phase II	Installation of approx. 18,500 linear feet of trunk & collector sewer line, abandonment of approx. 7,000 linear ft of sewer line, and rehabilitation of approx. 7,800 linear ft. of existing sewer line.	Conditional
12/12/01	Morrow Development, Inc.	The Villages of La Costa - Greens and	1,867 acres master planned community	WDR

		Oaks/Ridge		
12/12/01	DMB San Juan Golf Associates, LLC	Arroyo Trabuco Golf Course	Construct a golf course within an envelope of approximately 230 acres.	Conditional
12/14/01	Ramona Municipal Water District	Mount Woodson Waterline	Construction of a 0.5 mile long, 12 inch water pipeline that would connect the approved southwest area reservoir to the existing Mt. Woodson Ranch community.	Conditional
12/14/01	Otay Water District	Rancho Jamul Pipeline	Stabilize erosion around a water pipeline in a stream	Conditional
12/14/01	Aurora Biosciences Corporation	Technology Center	Construction of a technology center (commercial buildings)	Conditional
12/18/01	City of San Diego, Metropolitan Wastewater Department	Stevenson Canyon Emergency Sewer Repair	Emergency sewer repairs	Conditional
12/18/01	Rancho Santa Fe Community Service District	Santa Fe Valley Force Main	Construction of 6,600 liner feet of 10-inch PVC force main	Conditional
12/18/01	City of San Diego, Metropolitan Wastewater Department	East Clairemont (Tecolote) Emergency Sewer Repairs	Construction work to access the manholes along the trunk sewer including grading, repair of maintenance access, and installation of water crossings	Conditional
12/27/01	Port of San Diego	Fender Pile Replacement	Repair and replacement of fender piles, chocks, wales, log camels, and hardware with plastic or composite material piles.	Standard
1/14/02	Port of San Diego	B Street Pier	Construction of elevator pit for mobile passenger gangway	Standard
1/15/02	City of Temecula	Long Valley Wash Sediment Removal	Remove sediment accumulating near a culvert adjacent to Butterfield Stage Rd.	Withdrawn
1/18/02	San Dieguito Partnership	Nobel Drive Research Park	Commercial and residential development	Conditional

Public notification of pending 401 Water Quality Certification applications can be found on our web site at http://www.swrcb.ca.gov/rwqcb9/Programs/Special_Programs/401_Certification/401_certification.html.

4. Regional Board Member Survey - Mandatory Minimum Penalties (Mark Alpert)

The State Board's Office of Statewide Initiatives recently conducted a survey of the members of all nine Regional Boards regarding the effectiveness and fairness of Mandatory Minimum Penalties under Water Code Sections 13385(h) and (i). Attachment B-4 shows results of the survey.

5. Compliance and Enforcement Analysis - Annual Update (Mark Alpert)

The State Board's Office of Statewide Initiatives has conducted a review and analysis of the compliance and enforcement records using the Compliance Module of the SWIM (System of Water Information Management) database to evaluate statewide compliance, enforcement, and related information. The significant findings are highlighted below. The tables and charts that provide the results of that review are attached (B-5).

As a result of increased regulatory staffing and a continuing focus on compliance with regulatory programs, the enforcement efforts at the State and Regional Boards have continued to increase.

- The total number of formal enforcement **actions increased by 46 percent from FY 98-99 to FY 00-01** (see Chart No. 1).

Formal enforcement actions include Notice to Comply, Request for monitoring letters (13267), Cleanup orders, cease and desist orders, time schedule orders, and Administrative Civil Liabilities)

- The number of **enforcement actions with fines increased by 35 percent from FY 98-99 to FY 00-01** (see Chart No. 2)
- The amount of **fines assessed increased from \$5.4 million to \$11.9 million, a 120 percent increase from FY 98-99 to FY 00-01** (see Chart No. 3).
- NPDES violations have **decreased by 86 percent** from January 2000 to September 2001 (see Chart No. 4).

6. Compliance Assurance Report, 4th Quarter 2001 (October 1 – December 31) (Mark Alpert)

Attached are the 4th Quarter of 2001 reports on Discharger compliance and enforcement prepared using data from the SWIM (System for Water Information Management) Compliance Module database. There were 93 violations and 73 enforcement actions that were recorded during the period. Attachment B-6a (Violations by Type) provides a detailed list of all the violations and the enforcement actions associated with those violations during that period.

A portion of the formal enforcement actions, such as cleanup and abatement orders and administrative civil liabilities, are associated with violations that occurred prior to the reporting period and therefore, those enforcement actions will not appear on the violation report. Therefore we are also providing Attachment B-6b (Enforcement Actions by Program) which lists all Regional Board enforcement actions initiated during the period. This report provides a better idea of the work completed by the Regional Board during the period.

Please note that not all of the violations and compliance data are entered into SWIM. Recording of violations and enforcement actions related to the following programs are commonly not included in the SWIM database: underground tanks, aboveground tanks, sewage spills, Department of Defense, and SLIC (Spills, Leaks, Investigations, and Cleanup). The compliance information for these programs are stored in other databases maintained by the State. The State Board's goal is to have all of the Regional Board's compliance information contained in the SWIM compliance module and is working toward resolving this issue in the near future.

7. South Orange County Watershed Conservancy (*Jeremy Haas*)

During the public forum at the January 9, 2002 Board meeting, Dr. Susanne Levesque reported the creation of the South Orange County Watershed Conservancy (SOCWC). Based on a press release and limited discussions, staff believes that SOCWC representatives include coastal businesses, water agencies, and other parties who formed the organization to catalyze water quality improvements. In December SOCWC presented a plan to County of Orange officials to initiate the Aliso Creek Watershed Advisory Council (ACWAC). ACWAC's mission would be to manage stakeholder driven solutions to improving water quality in the Aliso Creek watershed. Staff will participate in a strategic planning meeting for ACWAC on February 21 and will report to the Board any pertinent developments.

8. Rancho Potrero Leadership Academy (*Stacey Baczkowski*)

Ms. Shelley Black, representing the Saddleback Conservancy, raised concerns during the public forum at the January Regional Board meeting about the potential impacts of the proposed Rancho Potrero Leadership Academy on Arroyo Trabuco Creek and the adjacent floodplain.

The Rancho Potrero Leadership Academy (RPLA), a juvenile detention facility, is located on a 338-acre County owned property in the foothills of the Santa Ana Mountains near Arroyo Trabuco Creek. The Regional Board received an incomplete application for Section 401 Water Quality Certification for this project on December 14, 2001. The proposed project consists of two parts: (1) construction of the buildings and supporting infrastructure for the expansion of the RPLA, and (2) construction of a new access road. Access to the site currently occurs via Rose Canyon Road.

Expansion of the RPLA will not result in impacts to jurisdictional waters of the U.S. or State, but construction of the proposed access road would impact Arroyo Trabuco Creek. The County of Orange looked at two alternatives to provide access to the RPLA and determined that the expansion of Rose Canyon Road, while impacting fewer acres of waters of the U.S., was not the preferred alternative due to other considerations. The portion of Arroyo Trabuco Creek within the project boundaries has been identified as a wildlife movement corridor and is proposed critical habitat for the arroyo southwestern toad. The proposed asphalt access road is not located within the current low flow channel, but occurs to the south, within the 10-year floodplain. The proposed road will follow the approximate path of an existing dirt road. The road will be constructed on an

elevated road bed, which will place it above the 25-year flood level. The application does not indicate: (1) the type of berms that will be required to elevate the road bed; (2) if the road-bed will require armoring adjacent to the creek; or (3) if the road bed will result in increased erosion and sediment downstream due to construction of a berm.

Staff has conducted a preliminary review and has the following concerns about the proposed project. The proposed road will be located in an area that floods on a periodic basis, and it is expected that the road will wash out. Impacts from pieces of asphalt and road reconstruction have not been addressed in the application. Furthermore, it is likely that engineers would want to place flood control protection adjacent to the road following wash-outs. The existing dirt road is relatively rough, and paving the road is expected to result in increased traffic into the upper Arroyo Trabuco and adjacent habitats.

Staff anticipates bringing the pending water quality certification before the Board at a future date.

9. Foothill Transportation Corridor (*Stacey Baczkowski*)

During the public forum on January 9th, several speakers raised concerns regarding the proposed Foothill Transportation Corridor. The proposed Foothill Transportation Corridor (FTC) would connect the Rancho Santa Margarita area and Interstate 5 in San Clemente through the inland foothills of South Orange County, California. The approximately 16-mile long section of freeway would initially consist of two lanes in each direction and include a 68-foot median set aside for one or two general purpose lanes in each direction and either high occupancy vehicles (HOV) lanes or future transit options. Two alignments, as shown on Attachment B-7, are proposed. The CP alignment runs east of the City of San Clemente, traverses the undeveloped San Onofre State Beach Park portion of the Camp Pendleton Marine Corps Base, and terminates at Interstate 5 just south of Basilone Road. The BX alignment runs westerly of Avenida Pico and joins the I-5 at Avenida Pico and adjacent to development for 2.25 miles. Major waterbody crossings that could be impacted include San Mateo Creek, Talega, Cristianitos Creek, San Juan Creek, and Canada Gobernadora. Staff will review and comment on the CEQA document and anticipates bringing the pending water quality certification before the Board at a future date.

10. Response to Concerns about Salt Creek Water Quality (*Jeremy Haas*)

During the public forum at the January 9, 2002 Board meeting, Ms. Karen Phelps, unable to address the Board, submitted written and photographic material regarding a water quality concern in Salt Creek in the City of Dana Point. Staff later contacted Ms. Phelps, who reported that a chronic condition of pollution is present in Salt Creek in the vicinity north of Pacific Coast Highway and adjacent to the St. Regis golf course. Trash and algae blooms were her primary concerns.

Staff contacted the City of Dana Point, who reported that this is the first that they have heard of trash or eutrophication problems in that vicinity. The City's primary objective in the Salt Creek watershed has been to reduce beach closures and has hired a consulting

firm to collect water quality data in the creek and review and suggest end-of-pipe treatment options.

Staff asked that the City review implementation of Water Quality Management Plans (WQMPs) submitted by recent developments, including the St. Regis Hotel, for compliance with best management practices to reduce loadings of fertilizers and trash to the creek. WQMPs are the tool used by the cities in southern Orange County during project review to ensure that post-construction BMPs will be implemented. The City will report its findings and plans to staff, so we can determine whether additional follow-up action is necessary.

11. *Caulerpa taxifolia* Response Activities (Lesley Dobalian)

Eradication and Surveillance Update

Eradication and surveillance efforts continue in Agua Hedionda Lagoon. Occasional small patches of *Caulerpa taxifolia* continue to be identified in close proximity to areas previously treated and tarped. Once identified, each area is contained under a tarp and treated with chlorine. Surveillance of the west basin is underway in the lagoon, and to date, *Caulerpa taxifolia* has not been identified in the area.

Southern California *Caulerpa* Action Team (SCCAT)

Staff continues to participate in and chair the SCCAT meetings. The last SCCAT meeting was held on January 30, 2002. The SCCAT steering committee consists of representatives from the San Diego and Santa Ana Regional Water Quality Control Boards, California Department of Fish and Game, US Department of Agriculture, and National Marine Fisheries Service.

International *Caulerpa* Conference

The first "International *Caulerpa taxifolia* Conference" was held on January 31-February 1, 2002 in San Diego. The conference was hosted by the University of California Cooperative Extension, the California Department of Fish and Game and the California Sea Grant College Program. The goal of the conference was to foster collaboration and information exchange to develop research, management, and education priorities. Expert scientists attended from the world, including researchers from the Mediterranean and Australia. Staff made a presentation, and participated in the conference. Proceedings of the conference will be distributed to participants.

Scientific Review Panel

A Scientific Review Panel (SRP) met for the first time following the "International *Caulerpa taxifolia* Conference" on February 2, 2002 to discuss the eradication and surveillance efforts in southern California. The SRP was put together by the California Department of Fish and Game and consisted of expert scientists from around the world. Staff attended the meeting, and provided information on the efforts to date. Staff also joined members of the SRP in Carlsbad at Agua Hedionda Lagoon on February 3, 2002. A formal write-up that includes comments and recommendations for future eradication and surveillance efforts in California will result from this meeting.

Funding

Regional Board staff is working with the City of Carlsbad to develop a contract and scope of work to encumber the \$700,000 grant awarded by the State Board in November to the City of Carlsbad to continue with eradication and surveillance efforts in Agua Hedionda Lagoon.

Public Outreach

Two public workshops were held in Carlsbad by the SCCAT steering committee and Regional Board staff on December 5 and December 11, 2001. The goal of the workshops was to provide information and discuss the need for increased restrictions on recreational activities in Agua Hedionda Lagoon to ensure diver safety and effective eradication and surveillance efforts. At the workshop, it was decided that a smaller group of individuals representing the varied interests of the lagoon would meet with members of the SCCAT steering committee and representatives from the City of Carlsbad to discuss the need for increased restrictions. The first of two meetings was held on January 29, 2002 in the evening in Carlsbad. A second meeting is scheduled for February 6, 2002. The outcome of these meetings will be presented to the Carlsbad City Council.

12. Industrial Storm Water Inspections (John R. Phillips)

This fiscal year, the USEPA has provided a total of \$1.4 million to the State to be used to increase the number of industrial storm water inspections conducted in southern California. There are approximately 650 industries regulated under the statewide General Industrial Storm Water Permit, Order No. 97-03-DWQ, within the jurisdiction of the San Diego Regional Board. Many of these industries contribute to urban runoff and related pollution problems. There are an unknown number of industrial facilities that should be regulated under the Industrial Storm Water Permit, but have not obtained coverage. A statewide effort to identify the "non-filers" is currently underway.

The USEPA has assigned one of its contractors, Tetra Tech Inc., to conduct industrial storm water inspections and municipal storm water audits on behalf of three southern California Regional Boards. This effort commenced in September 2001. Tetra Tech staff conducted a total of 67 industrial storm water inspections of facilities located within the San Diego Region from September 25 to October 5, 2001. Inspection reports for all 67 facilities have been submitted to Regional Board staff for review and follow-up actions.

Tetra Tech will return to the San Diego Region on February 25 to conduct an estimated 70 more industrial storm water facility inspections. Regional Board staff is preparing a priority list of industrial facilities for the Tetra Tech inspectors.

After completing the September 2001 inspection, Tetra Tech staff proposed a ranking a ranking system for prioritizing Regional Board follow-up actions, including recommendations for enforcement actions. From this ranking system, Regional Board staff have identified twelve facilities that have water quality or other significant violations and are the highest priority for follow-up inspections and appropriate enforcement.

Thirty-six facilities have a variety of lesser violations (such as not having the pollution prevention plan on site) and/or low 'threat to water quality' violations and are a medium priority for follow-up actions. The rest of the facilities, nineteen in all, are generally in compliance with the regulations and do not require any follow up actions at this time.

Regional Board staff has inspected ten of the twelve high priority facilities and issued a "Notice to Comply" to each facility. Facilities receiving "Notices to Comply" are expected to rectify deficiencies within 30 days. Two of the high priority facilities have not yet been inspected. These two facilities were re-ranked to a medium priority level by Regional Board staff and will be inspected in the near future. The medium priority facilities will be subject to site visits and possible enforcement action based on staff's review of the inspection reports and follow-up inspection. No inspections of medium priority facilities are scheduled at this time.

13. Landfill Updates

San Marcos Landfill – Closure *(Carol Tamaki and John Odermatt)*

Pursuant to California Code of Regulations, Title 27 (27 CCR), Sections 21585 and 21710, dischargers proposing to initiate closure of municipal solid waste (MSW) landfills must prepare a Report of Waste Discharge (ROWD) and submit it to the Regional Board as a Joint Technical Document ("JTD"). On January 9, 2002, the Regional Board received a JTD from the County of San Diego, including an amended Report of Waste Discharge (ROWD) for the final closure of the San Marcos Landfill. Under the requirements of Addendum No. 1 to Cease and Desist Order 98-39, a complete JTD is required to be submitted to the Regional Board no later than June 30, 2002. The current version of the JTD contains a proposal to construct an engineered alternative to the prescriptive standard landfill cover system required by 27 CCR. The Regional Board can allow engineered alternatives to prescriptive standards if the discharger makes the requisite demonstrations identified in 27 CCR, Section 20080. On January 29, 2002, the Regional Board staff also attended a meeting at which the County of San Diego presented an overview of their proposed design for the final cover system at the San Marcos Landfill.

The current JTD does not include complete analyses and information as required by 27 CCR. In addition, some of the technical analyses, land and water use data reported by the County are outdated and must be revised in the next version of the JTD. The Regional Board staff have reviewed the JTD and determined it to be incomplete at this time. The County of San Diego was notified of the determination by a staff letter dated February 8, 2002. The Regional Board staff anticipates meeting with the County of San Diego to discuss written comments on the JTD before the County submits a revised JTD.

San Diego Region Burn-ash Sites *(John Odermatt)*

Cal-EPA has convened a work group including the State Water Resources Control Board (SWRCB), Department of Toxic Substances Control (DTSC) and the Integrated Waste Management Board (CIWMB) to address various issues related to the management of wastes from burn-ash sites. Cal-EPA has compiled a list of 527 burn-ash sites statewide

of which 53 sites are located within the San Diego Region. Residual wastes associated with these sites commonly contain elevated and/or hazardous concentrations of metals (e.g., lead, copper, chromium, etc.). Depending upon the site-specific location and nature of the wastes, the threat to water quality from these sites may be significant.

38th and Quince Street – City of San Diego: Documentation regarding the location and operation of the burn-ash dump is referenced in a City of San Diego Planning Commission Report titled “Report of Refuse Dumps” filed on January 31, 1938. The report identifies refuse dumps that were either owned or operated or used by the City. The site reportedly operated as a local “dump” over an area of approximately 0.25 acre from the early 1920's to 1939. It is reported that burning operations may have occurred between 1928 and 1939.

On January 16, 2002, Regional Board staff attended a meeting with representatives from the City of San Diego, the California Department of Toxic Substances Control (DTSC), and U.S. Environmental Protection Agency. The topic was a discussion of the draft Removal Action Workplan (RAW) and the schedule proposed by the City to begin mobilization of cleanup efforts by May 2002. The RAW proposes to remove the top three (3) feet of soil, expected to result in over 5,000 cubic yards of burn-ash wastes, from accessible portions of the site. The San Diego Union-Tribune summarized the proposed work and community concerns in a story published January 23, 2002 (*see Attachment B-13a*). The City plans to enter into an agreement with DTSC for oversight activities and U.S. EPA will be the removal contractor for the work. The remediation project is being funded by the City of San Diego and a matching grant, awarded by the California Integrated Waste Management Board on January 23, 2002, in the amount of \$750,000. The City also notified the Regional Board by letter (dated January 31, 2002) that they no longer intend to pursue an option of disposing of burn-ash wastes at the West Miramar Landfill.

The Regional Board staff reviewed the electronic copy of the draft RAW and provided comments to the City on February 1, 2002. The areas of concern identified by the Regional Board staff include: the long-term stability of residual wastes remaining in the freeway embankments on Cal-Trans property, implementation of best management practices (BMPs) for mitigation of potential storm water discharges during cleanup operations, and compliance with requirements of the California Code of Regulations Title 23, Chapter 15 for waste management requirements for waste piles and disposal of hazardous wastes. The project proposes to include the creation of temporary waste piles prior to transport and disposal of wastes to an offsite facility. The Regional Board staff informed the City (by e-mail on February 5, 2002) that discharges of wastes into temporary waste piles must be covered by either: a.) waste discharge requirements (WDRs) approved by the Regional Board or b.) a waiver of WDRs approved by the Regional Board..

Webster Elementary School: On January 31, 2002, the Regional Board staff provided comments on the Preliminary Endangerment Evaluation (PEA) report prepared at the

request of DTSC. The concerns of the Regional Board staff are associated with lack of conclusions regarding the actual or potential impacts by burn-ash waste constituents upon surface water or groundwater resources at the site. The Regional Board staff also attended a meeting (on February 1, 2002) with the City of San Diego and DTSC to discuss the PEA.

Rainbow Canyon Landfill (A.K.A. Temecula Landfill): On December 7, 2001 the Regional Board issued a Notice of Violation (NOV 2001-363) to Dr. Harinder Grewal for violation of Order 97-11: "*General Waste Discharge Requirements for Post-Closure Maintenance of Inactive Nonhazardous Waste Landfills within the San Diego Region.*" The NOV was mailed to the discharger using certified mail on December 7, 2001. The Post Office returned the certified envelope, and the enclosed NOV, marked as "*unclaimed*" to the Regional Board on December 27, 2001. The NOV was successfully served on the discharger on January 24, 2002 and the Regional Board staff anticipates that future enforcement actions may be necessary for this facility. Dr. Grewal has subsequently contacted Regional Board staff by telephone and a meeting has been scheduled for February 20, 2002 to discuss the matter further.

Vista Burn Site: The site covers approximately 9.75 acres located immediately adjacent to Loma Alta Creek in proximity to the 1300 Block of Lee Drive bordering the City limits of both Vista and Oceanside. Waste burning operations were conducted between 1946 to 1967 under the ownership of the County of San Diego. The site is currently leased from the City of Oceanside and used as a baseball field by the Vista American Little League. On January 21, 2002, Regional Board and County LEA staff performed a joint inspection of the site. The Regional Board and County LEA staff jointly identified a number of areas of concern at the site. On February 1, 2002, the Regional Board staff met with the County of San Diego Local Enforcement Agency (LEA) regarding the status of the Vista Burn Site. More recent dumping of waste has occurred at the site and agency staff are attempting to determine the possible source(s) of illegal dumping activity. At this time, it is uncertain if there have been any water quality impacts to Loma Alta Creek from the discharge(s) of waste at the site. Regulatory options to be considered include issuing a cleanup and abatement order to the County of San Diego (and/or other dischargers as appropriate), and/or issuing a complaint and administrative civil liabilities (ACL) against one or more of the dischargers at the site.

West Miramar Landfill (*Craig Carlisle and John Odermatt*)

On March 29, 2001, the Regional Board issued a Notice of Violation (NOV 2001-73) to the City of San Diego for sediment discharges from the West Miramar Landfill. On January 16, 2002, Regional Board staff from the Land Disposal Unit, the Southern Watershed Unit, and the Industrial Compliance Unit visited the West Miramar Landfill for an inspection of recent upgrades to storm water mitigation measures implemented at the facility. The City has retained a technical consultant to assist them with developing effective storm water and erosion control measures at the landfill. During the inspection, the Regional Board staff observed that additional mulch and installation of additional or enhanced BMPs (*e.g.*, straw waddles, rock bags, sand bags, *etc.*) to provide erosion

protection. The City expressed an interest in having further discussions with the Regional Board Watershed staff regarding the technical basis for determining acceptable levels of sediment discharge from the facility. The City hopes that their additional storm water mitigation measures will adequately mitigate future storm water discharges from the facility.

Former Marine Corps Recruit Depot (MCRD) Landfill *(Brian McDaniel and John Odermatt)*

The inactive NTC Landfill, also known as “Old MCRD Landfill”, occupies approximately 32 acres of open space west of and adjacent to Lindbergh Field. The NTC facility was closed in 1999 in accordance with the Base Closure and Realignment Act (BRAC) of 1990. The Port of San Diego (Port) received title to the land on February 23, 2001. Under the Environmental Services Cooperative Agreement between the Navy and the Port dated April 17, 2000, the Port agreed to assume responsibility for regulatory compliance.

On December 5, 2001, the Regional Board staff issued Notice of Violation (NOV) #2001-358 to the Port for failure to submit semiannual monitoring report and failure to provide adequate landfill maintenance prior to October 31, 2001. In response, the Port District prepared a work plan for implementing monitoring of groundwater at the landfill. On February 8, 2002, Regional Board staff met with the Port District to discuss monitoring and maintenance requirements of Order 97-11, and proposed future actions at the site. The Port District staff also verbally described their preliminary plans to excavate a portion of the landfill in order to accommodate future expansion of the runway facilities at Lindbergh Field.

Otay Class III Landfill *(Brian McDaniel and John Odermatt)*

San Diego Landfill Systems is a subsidiary of Allied Waste Inc. and the owner and operator (the “discharger”) at the Otay Landfill). The discharger submitted a technical report dated November 1, 2000 documenting the presence of an estimated 575 cubic yards of soils emitting radioactivity from isotopic sources including ²²⁶Radium, ²³⁸Uranium and ²³²Thorium present within cover soils located at a former green waste processing site (covering approximately 0.4 acres).

On October 18, 2001, San Diego Landfill Systems responded to a Notice of Violation (NOV 2001-321- dated October 15, 2001) recommending monitoring of radiological parameters in groundwater and storm water discharges at the landfill. In addition, by letter dated October 19, 2001, DHS indicated that based upon the concentrations and quantities of ²²⁶Radium, the Otay Landfill would meet the criteria for a licensable facility with restrictive use. Alternatively, DHS has indicated that they would consider releasing the site from DHS restrictions if the radioactive constituents are shown to occur at background concentrations. If the discharger wishes to pursue a release of the Otay Landfill from restrictions, the DHS requests a comprehensive radiological characterization survey of the site. Recent discussions with San Diego Landfill Systems

staff (on February 5, 2002) have indicated that the wastes may be removed for disposal at an offsite facility that is permitted for disposal of low level radioactive materials.

On January 12, 2002, an article in the Los Angeles Times (*Attachment B-13b*) reported that the California State Department of Health Services (DHS) adopted a policy that would allow low level radioactive soil and debris, from decommissioned nuclear power plants and other facilities, to be disposed into municipal solid waste landfills. The LA Times article indicates that the new state policy applies to material from sites that have been "released for unrestricted use." At this time, it is unclear as to how this change may affect the Otay Landfill in regards to the presence of radioactive constituents within cover soils located at an area formerly used to process green waste. Regional Board staff will continue to provide the Board with updates on the development of management alternatives for the low-level radioactive wastes at the Otay Class III Landfill in future Executive Officer Reports.

Duck Pond Landfill (*Brian McDaniel and John Odermatt*)

On May 5, 1995, Boulevard Investors, the City of National City, Community Development Commission of the City of National City, and the County of San Diego were determined to be "*dischargers*" responsible for the cleanup and abatement of pollution and threatened pollution associated with discharges of solid waste at the Duck Pond Landfill in the City of National City (Cleanup and Abatement Order (CAO) No. 95-66 of the Regional Board).

On February 22, 1996, the State Water Resources Control Board adopted Order No. WQ-96-02 rescinding waste discharge requirements (WDRs), issued by the San Diego Regional Board as Order No. 87-55 (and addenda), for the Duck Pond Landfill. Order WQ-96-02 required that all of the requirements and provisions of Order No. 87-55 and addenda be incorporated into CAO No. 95-66.

On October 15, 1999, CV Ventures LLC, Rhode Island Acquisition No. 1 LLC, SD Commercial LLC and National Enterprises, Inc became the new owners of the property encompassing the Duck Pond Landfill and was identified as a discharger subject to CAO No. 95-66 (by Addendum No. 1 to Order No. 95-66).

On March 10, 2000, the Court of Appeals, Fourth Appellate District, Division One, State of California, reversed the Superior Court decision, granting the County of San Diego's petition for a writ of mandamus to remove the County as a responsible party for the Duck Pond Landfill. The court ruled that the County is not liable for and can not be held responsible for current releases of pollutants resulting from its pre-1981 conduct in operating the landfill. On July 20, 2000, the County of San Diego was removed from CAO No. 95-66 (by Addendum No. 2 to order No. 95-66).

On February 1, 2002, the Regional Board Executive Officer signed Addendum No. 3 to Cleanup and Abatement Order (CAO) No. 95-66 for the Duck Pond Landfill. Historical groundwater data from the former landfill indicate a stable groundwater flow direction

and gradient. In addition, the concentrations of detectable constituents are consistent with past analytical data. Under these site-specific conditions there is a technical basis for reducing the groundwater sampling and reporting frequency at the site. Addendum No. 3 reflects the existing conditions at the site and reduces ground water monitoring requirements, provides for reduced constituent sampling, and reduced reporting frequency.

The addendum also includes a number of other requirements, including: formalizes site maintenance requirements, notes the recent address change for the Regional Board office, and it requires the submittal of a technical report (by March 18, 2002) for an evaluation of the landfill cover. All other provisions, prohibitions, and requirements of Order 95-66 and addenda thereto, Order 87-55, and Monitoring and Reporting Program 87-55 (incorporated by reference) remain in effect. It is expected that this action will also help to extend the availability resources available provided for in the irrevocable closure and post-closure trust account.

14. Request for Review of Aliso Creek Enforcement Activities (*Jeremy Haas*)

During the public forum at the January 9, 2002 Board meeting, Mr. Roger von Butow of the Clean Water Now! Coalition suggested that the Board review the status and implementation of Cleanup and Abatement Order No. 99-211 and the Directive issued pursuant to California Water Code Section 13225 for an investigation of urban runoff in the Aliso Creek watershed. CAO 99-211 is directed at the J03P02 storm drain outfall within the Aliso Creek watershed. Mr. von Butow expressed particular concern over the use of portable on-site treatment systems to attain compliance with the CAO and Section 13225 Directive.

15. Warm Springs Creek Restoration (*Deborah Woodward*)

As discussed in the January 2002 Executive Officer's Report, your staff has been working with the Riverside Land Conservancy to develop a project that will remove a concrete-lined section of Warm Springs Creek in the City of Murrieta. Subsequently, letters were sent to the City of Murrieta's Mayor and city council, the Riverside County Flood Control District, and the County of Riverside Transportation and Land Management Agency requesting a meeting to work out a consensus approach to restore the creek. The Riverside Land Conservancy continues to explore potential funding sources for the restoration project and have partnered with the Elsinore–Murrieta–Anza Resource Conservation District and submitted an application for approximately \$3 million under the Proposition 13 Nonpoint Source Pollution Control Program.

16. Enforcement at the Mission Valley Terminals (*Kelly Dorsey and Julie Chan*)

Cleanup and Abatement Order (CAO) No. 92-01 required the Mission Valley Terminal responsible parties to immobilize the plume of groundwater pollutants emanating from the terminal and to achieve final cleanup by January 1, 1999. The responsible parties have complied with all other directives in the CAO, and with additional directives from the Executive Officer and staff. Although lawsuits and disputes over liability and cost

sharing for the cleanup have hampered progress, the size of the plume, discovery of methyl tertiary butyl ether at the site, and complexity of the hydrogeologic system are also reasons why the responsible parties have failed to complete the cleanup. Nonetheless, time is running out as the City of San Diego has tentative plans to develop this aquifer as a water supply within 15 to 20 years.

At the March Board meeting, staff intends to present the Regional Board with an amendment to the CAO setting a date no later than March 13, 2012, for final cleanup of the off-site pollution. This date is five years earlier than the City's proposed 15-year date for aquifer development. Further, to ensure compliance with the March 2012 date, the Regional Board will be asked to adopt a time schedule order that prescribes penalties of \$10,000 per day for each day of violation of the time schedule. The time schedule order is comprised of detailed and comprehensive tasks to complete site assessment, evaluate and optimize the existing remediation system, expand the system if needed, and model groundwater flow and contaminant transport to predict system performance over time.

The time schedule order does not include tasks for cleanup of on-site pollution at the terminal. Amendments to the CAO will be developed to address this aspect of the cleanup once the responsible parties have achieved cleanup of the off-site portion of the plume. Staff anticipates that final cleanup of on-site pollution will take significantly longer than the March 13, 2002 date for the off-site cleanup.

17. Update on Efforts to Reduce Trash in Chollas and Paleta Creeks *(Phil Hammer)*

In December, the Regional Board determined that reports submitted by the City of San Diego and the City of National City regarding how these cities plan to address excessive trash in Chollas and Paleta Creeks were not adequate. Plans to reduce trash in the creeks were required by the Regional Board under the authority of the San Diego Municipal Storm Water Permit (Order No. 2001-01), which requires cities to develop and implement additional best management practices (BMPs) in the event that storm water conveyance system discharges are found to cause or contribute to violations of water quality standards.

The reports were inadequate in several respects. In particular, they failed to adequately describe additional best management practices that will be implemented to halt violations of water quality standards for trash in Chollas and Paleta Creeks resulting from storm water conveyance system discharges. As a result of the inadequate reports, the Regional Board issued two additional letters to the cities requiring resubmittal of the reports with adequate information (see Attachments B-15a and b). These reports are due February 21, 2002. Failure by the cities to resubmit adequate reports will be subject to further enforcement.

18. San Diego Municipal Storm Water Permit Update *(Phil Hammer)*

To oversee implementation of the San Diego Municipal Storm Water Permit (Permit), the Regional Board initiated meetings with each Copermittee in San Diego County. The meetings serve several functions, including: (1) to convey to each Copermittee some of

the Regional Board's priorities for the municipal storm water program; (2) to educate the Copermittees on Regional Board expectations; and (3) to improve dialogue between staff of the Copermittees as well as with the Regional Board. Each meeting covers various Regional Board storm water priorities (such as construction site runoff, reducing discharges of trash, etc.) and includes a joint inspection of a construction site. To date, the Regional Board has met with four of the twenty San Diego County Copermittees.

Two major submittals under the Permit are due to the Regional Board office on February 21, 2002. On this date, the Copermittees will collectively submit the Model Standard Urban Storm Water Mitigation Plan (SUSMP), while each Copermittee will also submit its Jurisdictional Urban Runoff Management Program (JURMP) document. The Model SUSMP will address how the Copermittees will manage urban runoff from new development and significant redevelopment. The JURMP documents will comprehensively describe how each Copermittee will manage urban runoff within their jurisdictions. Staff will be closely reviewing these documents for compliance with the requirements of the Permit.

State Water Resources Control Board and Regional Board staff continue to work with the Attorney General's office to address the Superior Court petition filed by the Building Industry Association (BIA) and others regarding the adopted San Diego Storm Water Permit. To date, Regional Board efforts have focused on compiling the necessary administrative record. We will continue to provide updates to the Regional Board on any significant developments regarding the petition. Meanwhile, the requirements and provisions of the Permit are in full effect. Recent newspaper articles regarding the petition and the Permit are included as Attachments 1, 2, and 3.

19. Post-ACL Hearing Status of Rancho California Highlands Construction Site (*Frank Melbourne*)

On December 12, 2001, the Regional Board assessed a \$100,003 liability against William Johnson and Rancho California Highlands II, LLC. Rancho California Highlands II, LLC subsequently filed for Chapter 11 bankruptcy on December 19, 2001. On January 23, 2002, the Regional Board submitted Administrative Civil Liability Order No. 2001-216 to the U.S. Bankruptcy Court, Central District of California and issued a Notice of Violation to William Johnson for failure to pay the liability.

The responsible parties continue to be in violation of the construction storm water permit. Violations include: 1) The site owner has failed to pay the \$ 250 annual fee for the construction storm water permit and 2) as of January 29, 2002, Best Management Practices (BMPs) necessary to prevent erosion and sediment discharges from the site have not been maintained. This was also noted in the previous inspection on November 5, 2001. There was no evidence of discharges of sediment to waters of the State. Failure to maintain BMPs however, may result in a discharge during the next storm event.

The Regional Board will issue a Notice of Violation for failure to pay the annual fee for the site's construction storm water permit. The Regional Board informed Mr. Johnson and

Rancho California Highlands II, LLC of the violations regarding unmaintained BMPs in Staff Enforcement Letters after the inspection.

20. Post-ACL Hearing Status of North Plaza Construction Site (*Frank Melbourne*)

On January 9, 2002, as part of the settlement of a Complaint for Assessment of Administrative Civil Liability, the Regional Board assessed a \$103,497 liability against William Johnson and North Plaza LLC. The terms of the settlement consisted of a deposit of \$45,000 into an escrow account no later than Friday February 8, 2002 for funding of a Supplemental Environmental Project for the City of Murrieta. The remaining settlement amount of \$ 58, 497 was to be paid to the State Board for deposit into the Cleanup and Abatement account.

As of February 6, 2002, the State Board has not been paid, nor has the \$ 45,000 been deposited into an escrow account. The Regional Board will be given an update on this matter during the February 13, 2002 Board Meeting.

The responsible parties continue to be in violation of the construction storm water permit. As of January 29, 2002, Best Management Practices (BMPs) necessary to prevent erosion and sediment discharges from the site have not been maintained. This was also noted in the previous inspection on November 5, 2001. There was no evidence of discharges of sediment to waters of the State. However, failure to maintain BMPs may result in a discharge during the next storm event. The Regional Board informed Mr. Johnson and North Plaza, LLC of the violations in Staff Enforcement Letters after the inspection.

21. Sewage Spill Citizen Complaints (*Brian Kelley*)

At the January 9, 2002 Regional Board meeting, a few members of the public addressed the Board under the Public Forum item to discuss alleged reporting discrepancies of certain sewer agencies in the Orange County area. At the request of the Regional Board, staff has provided the following overview of procedures used to receive, investigate and respond to citizen complaints regarding sewer spills.

As background information, the following is a summary of the sewer overflow reporting requirements contained in Order No. 96-04, *General Waste Discharge Requirements Prohibiting Sanitary Sewer Overflows By Sewage Collection Agencies*. Order No. 96-04, as amended, requires publicly owned sewage collection agencies to report sanitary sewer overflows (SSOs) greater than or equal to 1,000 gallons, regardless of destination, and SSOs that reach surface waters, regardless of volume, to the Regional Board within 24 hours, followed by a written report within 5 days. The 24-hour notification may include reporting by telephone, voice mail, or FAX. All public agency collection system SSOs, regardless of volume or destination, are required to be reported to the Regional Board in a quarterly report. Although public agencies are not required to report private lateral and other sewage spills on private property under Order No. 96-04, many of the sewage collection agencies do report these incidents when they know about them as a courtesy to the Regional Board. All reports are submitted under penalty of perjury.

On occasion, reports of sewage spills from concerned citizens are received via telephone, email or other means. Depending on the type of facility involved, the report is routed to the appropriate unit for follow-up. The majority of SSOs involve sewage collection agencies regulated under Order No. 96-04. Reports regarding these spills are referred to the Publicly Owned Treatment Works Compliance (POTWC) unit for investigation and response as appropriate.

After receipt of a complaint/sewage spill report from the public, staff in the POTWC unit checks to see if the spill is subject to the reporting requirements of Order No. 96-04. If so, staff then determines whether the responsible sewage collection agency has reported the spill in accordance with Order No. 96-04. If a spill report has not yet been received by the agency, staff contacts the agency to find out whether the agency is aware of the spill and what steps have been, or will be, taken to terminate the spill and protect the public and the environment from any effects of the spill. If the spill warrants immediate investigation, staff will respond to the spill site to obtain first-hand information on the cause and effects of the spill and provide assistance and direction to the agency to minimize adverse water quality impacts. The decision to respond immediately depends on several factors, including the volume of the spill, severity of damage to the system, length of time to repair the system, reason for the spill, waterbody affected, and threat to health and safety. For spills that staff believe do not require immediate attention, the sewer overflow reports are reviewed for completeness.

All sewage spill reports are evaluated to determine if further enforcement action is appropriate. In most cases that warrant further enforcement action, a Notice of Violation (NOV) is issued to the responsible agency. The NOV is often accompanied with a request for additional information, pursuant to California Water Code Section 13267. After all information is received, staff reevaluates the information to determine its adequacy. Staff compares the agency reports with any citizen reports received for the same spill. If any discrepancies are noted, further clarification is obtained from the responsible agency.

With regards to citizen reports/complaints, there are some inherent problems in relying solely on the information provided. Sometimes the reports will be made anonymously with no way of contacting the reporting party to obtain follow-up information or to clarify the information provided. Other times, the reporting party will provide information with no supporting evidence to validate his/her claim(s), such as exact time and place of the incident or pictures showing what was actually observed. In the end, it may come down to the responsible agency reporting information under penalty of perjury versus a citizen making a verbal report of what they observed at a particular moment in time. Staff has the task of sorting out all of the information and deciding what additional action, if any, is appropriate.

If, after analyzing all of the information, staff decides that a responsible agency may have provided false information or failed to provide proper notification in violation of the provisions of Order No. 96-04, or committed other violations of California water laws or

regulations, the standard enforcement actions are available. These may include issuance of a Cleanup and Abatement Order or Administrative Civil Liability Complaint by the Executive Officer, adoption of a Cease and Desist Order with or without a connection ban or Time Schedule Order, referral of the case to the District Attorney's office for further investigation, or referral of the case to the state Attorney General. The decision to pursue one or more of these enforcement actions is made after consultation with Regional Board counsel and other appropriate parties.

It may appear, based on the above discussion, that staff does not seriously consider reports from concerned citizens. On the contrary, staff does take citizen reports seriously and believes they play an important role in our efforts to protect water quality and the public. Staff, however, evaluates **all** information provided, not just citizens reports, and proceeds with action believed to be appropriate based on the information obtained.

22. Investigation of Alleged Cancer Cluster (*Robert Morris*)

The Regional Board staff has recently been contacted by residents in the Valley Center community who are concerned about the number of children in their community who have been diagnosed with leukemia, brain tumors or other cancers since 1997. They have requested the Board's assistance in investigating the situation.

On January 26th, staff attended a community meeting in Valley Center that was conducted by the California Cancer Registry. The California Cancer Registry (CCR) is a collaborative effort composed of California Department of Health Services Cancer Surveillance Section, the Public Health Institute, the California Association of Regional Cancer Registries, the Centers for Disease Control National Program for Cancer Registries, and the National Cancer Institute's Surveillance, Epidemiology, and End Results Program. The California Cancer Registry is California's statewide population-based cancer surveillance system.

During the meeting, Dr. Hoda Anton-Culver, the regional director for CCR and epidemiology division director at the University of California Irvine College of Medicine informed the public that CCR would initiate a full-scale investigation of the issue by immediately organizing a committee, comprised of UC Riverside experts, county health and environmental officials and community members, to determine how and what the cancer investigation should study. As some of the concerns raised by the public relate to water quality, we will provide the committee with our full support.

Historically, we have had very limited regulatory activity in the Valley Center community. Waste discharge requirements have been issued to campgrounds, mobile home parks, dairies and to the County for the closed Valley Center landfill. There have been eleven underground tank cases where petroleum was released, but there have been no active or historic cases that your staff has worked on related to releases of non-petroleum chemicals in the Valley Center area.

A number of residents have questions regarding the community's water supply. The Valley Center Municipal Water District provides imported water to residents within their service area. Residents outside of the District's service area use groundwater from individual wells. Questions regarding the quality and health risk of imported water will be referred to the State Department of Health Services, Division of Drinking Water and Environmental Management, which is the State agency that regulates public drinking water systems. Questions regarding the risk to human health from groundwater wells will be referred to the County Department of Health and Human Services.

Dr. Anton-Culver intends to post the status of the investigation on their web site at <http://www.epi.uci.edu/>.

PART C

STATEWIDE ISSUES OF IMPORTANCE TO THE SAN DIEGO REGION

1. Border and Tribal Program Activities *(Claudia Villacorta)*

Tecate Pretreatment Program Kickoff Meeting

On February 1, 2002, the Executive Officer, Board Member Stephany and staff participated in a kickoff ceremony to initiate the Tecate Industrial Waste Monitoring and Pretreatment Program. The ceremony, which was hosted by the State Commission for Public Services of Tecate (CESPTE), was held in the Auditorium of the Autonomous University of Baja California Extension in Tecate, BC. Other participants included federal, state and local government representatives from Mexico and the United States.

The program, which will be managed by the Regional Board using funds provided by the State Water Board, will provide sample collection, analytical and training services in the amount of \$311,000 to CESPTE and Department of Ecology (DGE) personnel. Since additional spaces will be available in the classroom training portion of the program, personnel from the City of Tecate and the State Commissions for Public Services of Mexicali and Ensenada (CESPM and CESPE) will also be invited to participate.

The first classroom training course ("Sampling Lecture I") is scheduled for February 20th in Tecate, B.C. Sampling is tentatively scheduled to begin on February 26th.

The Tijuana Pretreatment Program is currently being funded by State Water Board Defensive Measures funds. Once these funds have been exhausted, the remaining General Fund monies (\$386,000) recently encumbered will be used to continue the Tijuana program.

Tecate Data Exchange

On January 17, 2002 the Regional Board staff attended a policy meeting to initiate discussions on data management and data exchange protocols for the Tecate Industrial Waste Monitoring Program. Other participants included representatives from CalEPA, the State Water Board (SWRCB), the City of San Diego, the Baja California Department

of Ecology (DGE), the State Commission for Public Services of Tecate (CESPTe), and the International Boundary & Water Commissions (IBWC-US Section and CILA-Mexican Section).

During the meeting, it was agreed that the data will be initially managed by representatives from CESPTe and DGE, who will review it in a reasonable time period and then provide it to a Binational Technical Committee. The Committee will review and comment on the data and after a predetermined time period, the data will be released to the public via the webpages of DGE and CESPTe. The Technical Committee will consist of one technical representative from each of the following agencies: the San Diego Regional Board, the SWRCB, DGE, CESPTe, IBWC, CILA and the City of San Diego. A Chair and Vice-Chair will be selected to call meetings, prepare the agenda, take minutes and facilitate the meetings.

Terms and by laws for the Binational Technical Committee will be prepared and agreed upon during our next meeting in March.

Request for Cleanup and Abatement Funds to cleanup trash in the Tijuana River

In December 2001, the Regional Board transmitted to the State Board the City of San Diego's request for emergency Cleanup and Abatement Account (CAA) funds in the amount of \$100,000 to cleanup trash in the Tijuana River. This one-time cleanup project proposed to remove a portion of the trash at the source (Tijuana, Mexico) before it could flow down the river to the United States. However, the request was denied. The State Water Board stated that it could not fund projects outside the national boundaries (letter attached (C-1)).

Tribal Program Activities

On January 30-31, 2002, Regional Board staff participated in the Inter-Tribal Water Protection Conference held at the Sycuan Casino and Resort. Board staff members Linda Pardy and Beatrice Griffey gave brief presentations discussing the Board's programs and Basin Plan. Specific emphasis was placed on the Board's groundwater protection programs and Surface Water Ambient Monitoring Program (SWAMP). Border Coordinator, Claudia Villacorta, briefly discussed the Board's Border Program and the program's goal to expand our tribal technical assistance programs. Tribal members were receptive and expressed a desire to increase their participation and input in future Board activities.

Following the conference, the Border Coordinator participated in a tour of the Sycuan wastewater and water treatment plants. The 0.15-MGD sewage treatment plant uses a sequencing batch reactor process and treats all wastewater generated by the Sycuan Casino and Resort. Treated wastewater is disinfected with chlorine and used to service commercial toilets, urinals and irrigation systems. The potable water plant, which services the entire Sycuan community, has a treatment capacity of 0.25-MGD and uses an ion exchange resin to remove nitrate from the groundwater.

This conference was a great opportunity for Board staff to begin to establish contacts with the tribal communities in our region.